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January 7, 2003

**VIA ELECTRONIC SUBMISSION**

Ms. Marlene H. Dortch  
Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: **Memorandum of Ex Parte Presentation**  
**CC Docket No. 01-338, Review of the Section 251 Unbundling**  
**Obligations of Incumbent Local Exchange Carriers;**  
**CC Docket No. 96-98, Implementation of the Local Competition**  
**Provisions in the Telecommunications Act of 1996; and**  
**CC Docket No. 98-147, Deployment of Wireline Services Offering**  
**Advanced Telecommunications Capability**

Dear Ms. Dortch:

On January 6th, James C. Smith, Don Cain and Gary Phillips representing SBC Communications, Inc. (SBC) met with Lisa Zaina, senior legal advisor to Commissioner Jonathan Adelstein. Mr. Smith discussed the availability of competitive switching alternatives and the role UNE-P plays in undercutting facilities investment.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter and attachment are being electronically filed. I ask that this letter be placed in the files for the proceedings identified above.

Please call me should you have any questions.

Sincerely,

/s/ Brian J. Benison

CC: Lisa Zaina



# **Unbundled Switching, UNE - P & Hot Cuts**

January 6, 2003

# Competitive Switches Are Widely Deployed

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- CLECs have deployed 1,300 circuit switches
  - 200+ CLECs of all sizes have deployed local circuit switches in the BOC regions
  - Including in small markets such as Apple Valley MN, Mishawaka, IN, Mojave CA, & Anniston AL
- In addition to the circuit switches, more than 9,500 CLEC packet switches provide further competition

# Competitive Switches Are Widely Used



Percentage of Access Lines in Wire Centers Where CLECs have acquired customers through Ported Numbers						
	Percentage of BOC Switched Access Lines in Wire Centers Served By:					
	1 or More CLEC Switch			2 or More CLEC Switch		
	Bus.	Res.	Tot.	Bus.	Res.	Tot.
Verizon	90	83	85	84	75	79
SBC	88	83	85	82	75	77
BellSouth	94	90	91	85	79	80
Qwest	89	83	85	82	75	77
Total	89	84	86	83	76	78

- CLECs are already using their own switches to serve customers in wire centers representing 86% of BOC access lines.
- 2 or more CLECs are already using their own switches to serve customers in wire centers representing 78% of BOC access lines.

# Simple Margin Transfer With No Investment



## Ameritech Consumer 5-State Averages

	<u>SBC Retail</u>	<u>SBC UNE-P</u>	<u>IXC Using SBC UNE-P</u>
Revenue	\$36	\$15	\$41
Expenses	*\$26	*\$26	**\$23
Operating Margin	\$10	\$(11)	\$18
Capital Investment	\$1,100	\$1,100	\$0
<i>Capital Investment</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Universal Service Provider</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

\* Excludes cost associated with data services.

\*\* UNE-P plus 20% SG&A.

*“We are not going into States where we don’t have a gross margin of 45% on the local ....”*

*Betsy Bernard, President, AT&T Consumer*

# SBC Provides Residential Universal Service While IXC's "Cherry Pick" Profits



IXC offers target premium customers rather than universal service.

## Ameritech Residential Customer Spending

	Ave Rev per Line	% of Total SBC Revenue	% of Total SBC Profit
IXCs → Quartile 1	\$43-\$54	36%	72%
IXCs → Quartile 2	\$36-\$43	29%	41%
SBC → Quartile 3	\$24-\$36	21%	9%
SBC → Quartile 4	\$0-\$24	14%	(22)%

SBC's resulting customer base will be unprofitable, with no funds for investment.

# Claims that UNE-P is a Necessary Transitional Vehicle are Just a Smokescreen

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- In NY, ATT and WCom operate 28 switches. They serve over one million residential customers with UNE-P, but have not converted a single residential customer to their switches.
- In SBC territory no significant conversions have occurred.
- It would be illogical to use it as anything other than a parking lot
  - ATT getting 45% + margin on no capital investment.

# UNE-P Discourages Facilities-based Competition

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- The facts show an inverse relationship between facilities investment and UNE-P usage:
  - UNE-P offers high margins with minimal investment : [W]e're deploying very little capital to make it work.”  
*Wayne Huyard, COO, MCI*
  - The 10 states with the highest levels of residential UNE-P competition accounted for three-quarters of residential UNE-P growth between January and June, 2002, but only a third of the growth in facilities-based residential lines.
  - The 10 states with the highest levels of facilities-based residential competition accounted for 85 percent of growth in facilities-based residential lines, but only 16 percent of residential UNE-P growth.



# CLEC Claims of a Hot Cut “Problem” Have No Basis in the Record

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- Quality: SBC has a proven record of performance as the FCC has found in 271 proceedings and as evidenced by data filed in this proceeding.
  - Comprehensive performance metrics for hot cuts are in place today in each of SBC’s states and apply irrespective of the number of orders submitted by CLECs
  - Performance data demonstrate that the quality of SBC’s hot cut performance is not an issue
- Scalability: Moving forward, SBC can meet any reasonably foreseeable increase in hot cuts at the same superior level of performance.
  - A small part of SBC’s CO workforce is involved in the hot cut process. This allows SBC to allocate additional resources, as needed, to meet any spike in demand. 500,000 hot cuts performed from June 2001 through May 2002 required only 1.3 % of SBC’s CO man-hours. Past volumes do not represent SBC capacity as suggested by CLECs.
  - If all UNE-P orders from June 2001 through May 2002 orders had instead been UNE-L orders, Ameritech could handled increased hot cut volume with 6% overtime, SWBT with 3.7% overtime, and Pacific with .9% overtime
  - SBC has a proven historical response to spikes in cross connect activity—in Ann Arbor retail orders increased from 150 orders per day to 800 per day during beginning of school year. Compare with peak CO weekly UNE-P volumes: MI—2,290, TX—420, CA—450.

# No Basis to CLEC Hot Cut Claims (Cont'd)

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- Cost: Hot cut charges are not a source of impairment.
  - Prices are established based on TELRIC
  - SBC waives labor charges for FDT loop cutovers
- WorldCom estimates SBC hot cut charges (11/20/02 ex parte)
  - CA less than \$20 per line
  - average of 8 SBC states (AR, CA, IL, KS, MI, MO, OK, TX) approximately \$34.00 per line.

# Growing Cable Telephony Competition

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- Cable operators such as AT&T, Cablevision, Charter, RCN, Comcast and others provide telephony service to 2.2 million customers as of June, 2002
- Bill Schleyer of AT&T Broadband, “We finally have a national scale facilities based competitor to the ILEC. That is a very, very powerful position. . . . We’ll be taking a fair amount of share from [the ILECs] over the next few years.”  
(AT&T Reply comments in AT&T/Comcast merger)
- AT&T’s own cable telephony operations “now have 115 franchise areas with greater than 25% penetration including dozens of communities within our largest markets.” (AT&T’s 2Q02 Investor Conference Call)
- Over the past 6 months cable has added 600,000 new telephony subscribers
  - that’s an average of 100,000 per month, a 40% increase from year end 2001

# Growing Wireless Substitution



- As of February 2002, there were 130 million wireless subscribers.
  - Up from 34 million at the end of 1995.
- Yankee Group Report September 2002:
  - “Wireline networks... are the principal victims of mobile’s advance”
  - ~ 30% of personal calling minutes are now wireless
  - By 2006, the study predicts U.S. mobile subscribers will increase by 50% and will dominate personal calling, severely cannibalizing wireline minutes of use.
- The increasing trend toward the abandonment of landline connections seems to be a natural outgrowth of the advances in technology, lower pricing and more aggressive marketing by wireless companies.

(Eastern Management Group)